

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE: NEELAM TANEJA

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DOC #: _____
DATE FILED: 10/16/18

17-cv-9429 (JGK)

MEMORANDUM OPINION
& ORDER

JOHN G. KOELTL, District Judge:

The pro se appellant, Neelam Taneja, filed an appeal in this Court on December 21, 2017, challenging the bankruptcy court's dismissal of her Chapter 13 petition. The appellant argued that there was fraud in the bankruptcy court proceedings and that the bankruptcy judge should have recused herself.

This Court affirmed the bankruptcy court's decision in a Memorandum Opinion and Order on March 21, 2018, because the appellant did not contest the bases for the bankruptcy judge's decision and the appellant did not present evidence of fraud or provide a basis for her contention that the bankruptcy judge should have recused herself.¹ In re Taneja, No. 17cv9429, 2018 WL 1662770, at *1 (S.D.N.Y. Mar. 21, 2018).

¹ The bankruptcy court dismissed Taneja's petition for three reasons: (1) Taneja did not put forward a feasible Chapter 13 plan, (2) Taneja's debts exceeded the statutory limits, and (3) Taneja did not demonstrate a regular and stable income. As was explained in this Court's previous Opinion, each of these reasons is a legitimate basis to dismiss a Chapter 13 petition. In re Taneja, No. 17cv9429, 2018 WL 1662770, at *1 (S.D.N.Y. Mar. 21, 2018).

Taneja appealed this Court's decision to the Second Circuit Court of Appeals on March 29, 2018. After filing her notice of appeal, Taneja filed a motion for reconsideration in this Court. This Court issued a Memorandum Opinion and Order on May 25, 2018, which stated that this Court lacks jurisdiction to amend its March 21, 2018, Memorandum Opinion and Order, because the appellant had already filed an appeal of the decision. In re Taneja, No. 17cv9429, 2018 WL 2731272, at *1 (S.D.N.Y. May 25, 2018); see also United States v. Rogers, 101 F.3d 247, 251 (2d Cir. 1996) (filing a notice of appeal divests the district court of jurisdiction over the issues being considered on appeal).

Because this Court issued its March 21, 2018, decision without the benefit of a reply brief from the appellant, the Court invited the appellant to file any materials supporting her appeal of the bankruptcy court's decision by June 15, 2018. At that point, the Court indicated that it would consider issuing an indicative ruling seeking a remand of the matter if the appellant's motion was meritorious. In re Taneja, 2018 WL 2731272, at *1; see Fed. R. Civ. P. 62.1(a)(3); Fed. R. App. P. 12.1. However, if this Court found that the additional materials did not render her appeal meritorious, the Court would deny the motion for reconsideration. See Fed. R. Civ. P. 62.1(a)(2).

Despite this Court's invitation, the appellant did not file any additional materials supporting the appeal of the bankruptcy

court's decision. Accordingly, this Court never issued an indicative ruling under Federal Rule of Appellate Procedure 12.1. On August 29, 2018, the Second Circuit Court of Appeals issued an Order holding the appellant's pending appeal in abeyance until a final ruling on the appellant's motion for reconsideration was issued.

Because the appellant did not file any additional materials supporting her appeal of the bankruptcy court's decision, her motion for reconsideration is **denied**. See Davidson v. Scully, 172 F. Supp. 2d 458, 461 (S.D.N.Y. 2001) ("A motion for reconsideration will generally be denied unless the moving party can point to controlling decisions or data that the court overlooked -- matters, in other words, that might reasonably be expected to alter the conclusion reached by the court").

Well after the June 15 deadline, the appellant filed a proposed order that would discharge her debt under 11 U.S.C. § 727. That proposed order is without basis and does not support her motion for reconsideration. Therefore, the Court declines to sign the proposed order.

The Clerk is directed to close all pending motions and to close this case.

SO ORDERED.

Dated: New York, New York
October 15, 2018


John G. Koeltl
United States District Judge